

BOARD OF ADJUSTMENT REPORT



MEETING DATE: 4/7/2004

ITEM NO. _____

ACTION REQUESTED: Zoning Ordinance Variance

SUBJECT	Brashear Residence 4-BA-2004
REQUEST	Request to approve a variance from Article V., Section 5.504.E regarding a yard setback on a 7,268 Sq ft. parcel located at 8002 E Monte Vista Road with Single Family Residential (R1-7) zoning.
OWNER	Jay M Brashear 480-429-1942
LOCATION	8002 E Monte Vista Rd
CODE ENFORCEMENT ACTIVITY	A Notice of Violation was issued on January 5, 2004
PUBLIC COMMENT	The applicant approached the neighbor to the east and neighbor to the south, who both support the variance request. Except for general inquiries, no other comments have been received.
ZONE	Single Family Residential District (R1-7)
ZONING/DEVELOPMENT CONTEXT	<p>The subject site is a corner lot (Lot 86) of Cox Heights Unit 1 subdivision, which also includes the properties to the north, east, and south. The subdivision was recorded in 1959 with 116 single-family lots having similar sizes, and is zoned Single Family Residential District (R1-7).</p> <p>This subdivision is located at the northeast corner of Hayden Road and Monte Vista Road. Both streets have the same street right-of-way widths as originally dedicated with the final plat in 1959.</p>
ORDINANCE REQUIREMENTS	Zoning Ordinance Section 5.504.E.1.c. requires a minimum five (5) foot front yard building setback along the side street frontage for all corner lots.
DISCUSSION	<p>A single-family home exists on the site, and this lot requires that there be a minimum five (5) foot front yard setback on the side street frontage (along Hayden Road). The applicant recently began constructing a 180-sq.ft. building addition on the west side of the home without obtaining building permits. This building addition encroaches into the entire 5-foot setback.</p> <p>The applicant wishes to obtain a 5-foot variance in order to obtain a building permit and finish construction of the building addition.</p>

FINDINGS

- 1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:**

The applicant has stated that the rear yard is small due to the pool location and a utility easement on the north side. The lot size and shape is very typical of other lots in the neighborhood, and the utility easement referenced is on the neighbor's property to the north. There are no site-specific features or adjacent land issues that present a special circumstance that might warrant this variance. The width of this lot is similar to other corner lots in the neighborhood.

- 2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:**

Other properties in the District are also subject to the same yard setback requirements. The property and existing building may continue to be used as a residence regardless of the outcome of this variance request. Instead of the side yard encroachment, the building addition may extend into the rear yard as long as it is no closer than fifteen (15) feet from the rear property line and does not occupy more than thirty percent (30%) of the rear setback area. (Zoning Ordinance Section 5.504.E.3.)

Some properties in the neighborhood have carports that encroach into the side yard. Carports which are structurally integrated to the main building may be constructed on the property line, providing the carport does not abut a carport or similar structure on the adjacent residential lot, and providing the property owner adjacent to the proposed carport grants to the city a five (5) feet nonbuildable easement. (Zoning Ordinance Section 5.504.E.2.c.)

- 3. That special circumstances were not created by the owner or applicant:**

There are no site-specific features or adjacent land issues that present a special circumstance. There have been no changes to the size and configuration of the lot since it was platted in 1959.

- 4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:**

Although the building addition is relatively small, the building extending into the yard along Hayden Road may be a perceived visual detriment to the neighborhood. Two adjacent neighbors support the request.

STAFF CONTACT

Tim Curtis, Project Coordination Manager
Report Author
Phone: 480-312-4210
E-mail: TCurtis@ScottsdaleAZ.gov

ATTACHMENTS

1. Project Narrative
2. Background Information
3. Justification
4. Context Aerial
5. Aerial Close-up
6. Zoning Map
7. Photographs
8. Proposed Site Plan

I (Jay Brashear, home owner of 8002 E Monte Vista) am requesting consideration for a variance to complete the following project named *Brashear Residence* (BR) at 8002 E Monte Vista which unwisely has already been started without appropriate permits and other considerations. The lesson has been learned! Any future building endeavors on my part will include seeking permits prior to commencement.

Current pictures of halted structure and plans of structure to be completed accompany this narrative. Please refer to these items as needed.

BR is a storage shed designed and built to this point by Encore Property Development to be used as a storage unit. (Plans and elevations included.) It will not be used as part of the dwelling. This structure was designed at the request of myself to create additional storage space needed at this residence. Encore Property Development states that this building is designed to code. Its structure included electricity. Plumbing is not part of the structure although 3/4 inch copper pipe was buried beneath it for future irrigation and possible installation of a reverse osmosis system to service existing residence.

The request is as follows: I am requesting variances to set backs, proper building permits and other considerations to complete the following:

- Completion of 180 square foot shed that is already under way (estimated 2/3rds completed). Completion would include metal siding and doors on both north and west walls. Once the structure is completed it will be painted with the rest of the house. Please see plans and pictures.
- Once the storage structure is completed, a block fence matching the existing block facing Hayden Rd. would be built around it so as to protect it and to have it in the "back yard." The original plan was to have the new block wall extended from the existing fence line that runs north/south facing Hayden Rd. This new block wall would run south to encompass the shed and then turn east to join with the southwest corner of the house. This new block fence would have gates that face Hayden Rd to allow access for utility readers and corresponding to the west doors of shed to allow for access to shed. Iron metal gates with wooden slats would be used for gates. Please refer to plans and elevations.

I am requesting that you allow these variances and permits to be granted for the following hardships:

- The available backyard is too small. Just about 1/2 of the west side of the backyard is a swimming pool with surrounding decking and safety fence.
- The backyard does not have alley access
- Diagonal transection of overhead utilities and underground sewer. Sewer line location is not known at this time but is assumed that it travels from west 1/3rd of back yard from house to northeast corner of property.
- Illegal garage enclosure. This project completed by former owner was done without permits and not done to code. Storage structure is needed to house items that are currently in enclosed garage so that enclosure wall can be removed.
- Noise and heat from west side of house are large. This structure would indirectly absorb these.

- Possibility of highspeed, out of control vehicle from Hayden Rd hitting west wall possibly injuring residents. This structure would absorb kinetic energy should something like this occur. (Watching the news has shown me that it happens more than you would like to think.)

I realize that requests of this type are rarely granted. I would love to complete this shed as proposed but I will graciously take it down if these requests can not be granted. If alterations are required to allow the shed to be completed at its current location, I would certainly consider those over tearing down the structure. I.E. different siding, different fencing, etc.

I consider myself a law abiding citizen and had no desire to break the law. Unfortunately, I proceeded with this project without the proper authorization. This was due to ignorance and not malice. Please allow me to apologize for this and let you know that it has been an expensive lesson of which I will not need to learn again.

Thank you for your consideration of completing this project.



City of Scottsdale

Citizen and Neighborhood Resources

CODE ENFORCEMENT HOTLINE - (480) 312-2546 • Fax - (480) 312-2455
7447 EAST INDIAN SCHOOL ROAD, SUITE 300 • SCOTTSDALE, AZ 85251

NOTICE OF VIOLATION COMPLIANCE ORDER

PROPERTY OWNER:

Jay Brashear

ADDRESS:

8002 E. Monte Vista

DATE:

1-5-04

PLEASE BE ADVISED THAT AN INVESTIGATION HAS SHOWN THAT THIS PROPERTY IS IN VIOLATION OF THE CITY NUISANCE AND PROPERTY MAINTENANCE ORDINANCE OR CITY CODE IN THE FOLLOWING AREA(S):

Public Nuisances Ch 18 - 5	Preservation of Rural Residential Lifestyle Ch 18 - 11
Litter Control Ch 18 - 6	Solid Waste Management Ch 18 - 109
Vehicles and Watercraft Ch 18 - 7	Housing Code Ch 18 - 110
Buildings, Structures & Accessory Improvements Ch 18 - 8	<input checked="" type="checkbox"/> Zoning Code Appendix B
Land Ch 18 - 9	Other
Preservation of Natural Desert Ch 18 - 10	

TO CORRECT THE VIOLATION(S):

① Our records indicate proper permits were not obtained for the residential addition on the west side of the residence. Cease all construction on addition, submit plans to Development Services One Stop Shop (7447 E Indian School / 312-2500), obtain permits, and obtain inspections. Compliance will avoid a Civil Citation requiring a Court appearance, and possible daily fines.

Thank you.

PLEASE CORRECT THE VIOLATION(S) BY:

REINSPECTION DATE:

1-23-04

If you fail to correct the violation(s) within the time stated, you may be subject to a Civil Sanction of up to \$200.00 (Residential) or \$500.00 (Non-Residential) criminal charges may be filed in some cases.
Repeat violation(s) may be subject to higher fines.

CODE INSPECTOR

Michael Ritter

PHONE

480-312-7079

Background Information
For Board of Adjustment



DATE 3-1-04
APPROVED AS PRESENTED _____
APPROVED W/STIP _____
DENIED _____

CASE # _____
PROJECT # 20 - PA - 2004
CONTINUED TO _____
HEARING DATE _____
CHAIRMAN _____

APPLICANT TO FILL OUT THIS PORTION

VARIANCE REQUESTED AT (STREET ADDRESS WHERE VARIANCE IS REQUESTED)

8002 E Monte Vista West side

TO BE COMPLETED BY YOUR COORDINATOR

ARTICLE AND SECTIONS OF ZONING ORDINANCE TO BE VARIED SEC. 5.504.E.1.B.

SCOTTSDALE ZONING REQUIRES 20' SETBACK (DOUBLE FRONTAGE)

APPLICANT'S REQUEST 0' SETBACK

AMOUNT OF VARIANCE 20'

PROCEDURES OF THE BOARD OF ADJUSTMENT

There will be three notices of hearing: One on the property, two within 300 feet, and a notice will be published in the daily newspaper, at least 15 days before the hearing, and a notice will be mailed to adjacent property owners, within 300', at least 15 days before the hearing.

The Chairman shall determine what parties are available to represent the applicant, and they shall present the case. The staff will be heard, then those in favor or in opposition. After arguments have been heard, the party representing the owner will have an opportunity for rebuttal after which the Chairman may declare the questioning and argument closed. A vote will then be taken on the matter of approval or denial.

No variance shall be granted resulting in any changes in the uses permitted in any zoning classification or which constitute special privilege.

The application and all maps, plans and other accompanying data and material shall be available for public inspection during office hours at the office of the building official.

A notice of hearing will be mailed to the applicant 6 days before the hearing.

For information regarding applications please call: 994-7080.

ATTACHMENT #2



Justification For
Requested Variance



CASE # _____

PROJECT # 20 - PA - 2004

APPLICANT TO FILL OUT THIS PORTION

Address Where Variance is Requested

8002 E Monte Vista
Scottsdale, AZ 85257

JUSTIFICATION

Must Be Completed Fully By Applicant (All Four Justifications Must Be Satisfied)

1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address.

The property in question has a few things that cause back yard to be small: 1) Pool on west side, 2) Utility easement on north side. Allow the variance would use space well.

2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district.

The side yard could easily become part of the backyard giving the property and the property just south of it a more uniform consistent look by continuing the fence around the shed.

3. That special circumstances were not created by the owner or applicant.

The property is too small in the back yard keeping in mind the distance the shed was to be away from existing structures.

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

Project face Nagalen Road. The hopes that it will be fenced in to allow the property more uniformity from west looking east.



Brashear Residence

4-BA-2004

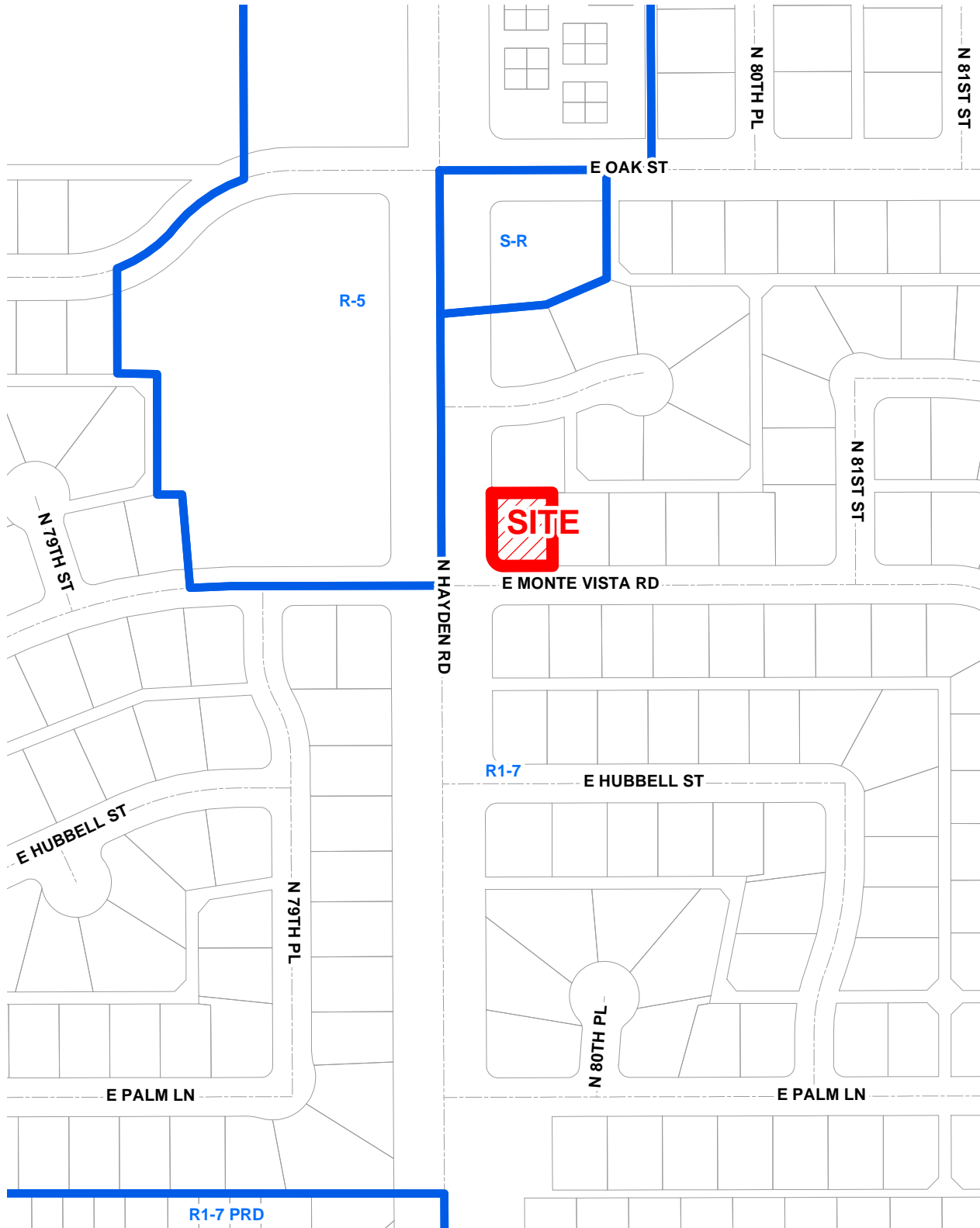
ATTACHMENT #4



Brashear Residence

4-BA-2004

ATTACHMENT #5

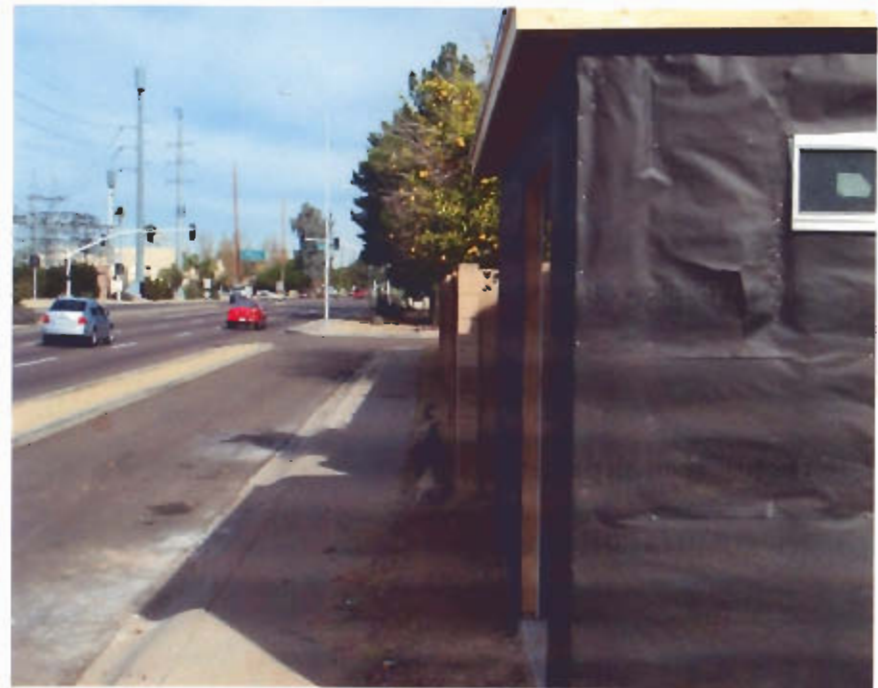


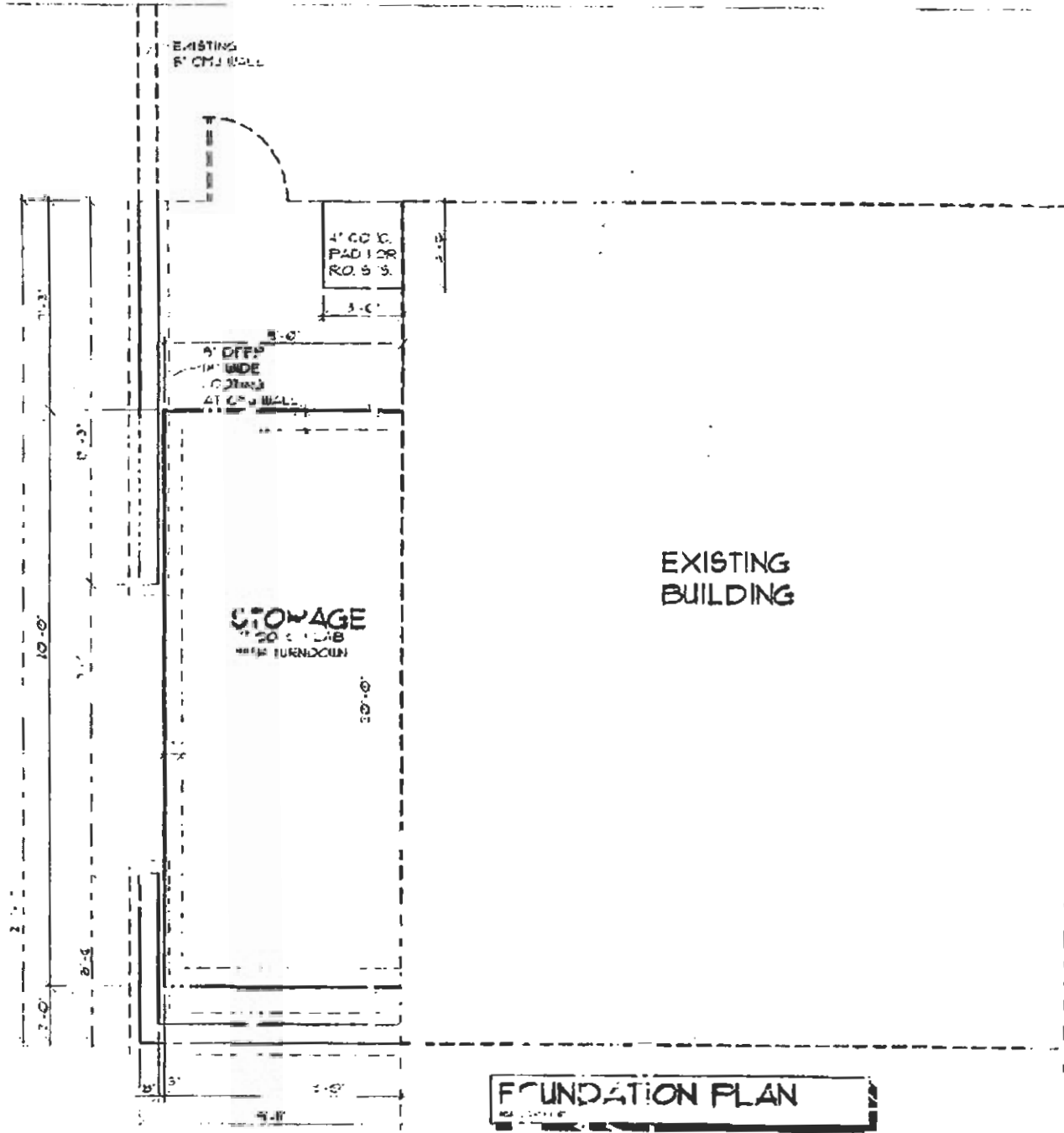
4-BA-2004

ATTACHMENT #6

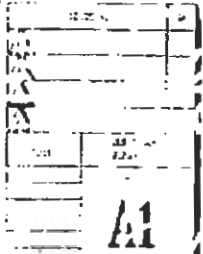


Additional storage facility project on 8002 E Monte Vista started in late December 2003. Building is 180 sq ft with electric to be used for storage. Building does not include plumbing. Copper piping was buried for future irrigation and reverse osmosis installation use as part of other projects (of which permits will be acquired.) Completing the building will include putting up a decorative metal siding, complete with double doors on the west wall and a single 36 inch door on the north wall. A block fence that extends off of the existing fence line that travels north/south and turns at southwest corner of structure to join to southwest corner of the house was to be included with iron gates corresponding to doorways of structure..





FOUNDATION PLAN



CONTRACT NO. 03-000-015-100

BRESHEAR RESIDENCE
 8807 EAST MONTE VISTA
 SCOTTSDALE, ARIZONA

FOUNDATION

A1